

LEONARD M. SINGER

July 27, 2010

BY FEDERAL EXPRESS

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, Southwest
Washington, DC 20024



227532

Re: STB Finance Docket # 35397
ABC & D Recycling, Inc.

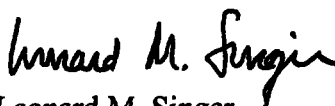
Dear Ms. Brown:

Please find enclosed for filing an original and 10 copies of ABC & D Recycling Inc.'s Verified Notice pursuant to 49 CFR 1150.31; a check in the amount of \$1800 for the filing fee and a CD containing the text of the Notice in Adobe Acrobat format and the Federal Register caption summary in both MS Word 2003 and Adobe Acrobat format.

I also enclose an extra copy of the Notice which I ask you to date stamp and return to me in the enclosed self-addressed stamped envelope.

Please contact me if you have any questions regarding this filing. Thank you very much for your cooperation.

Very truly yours,


Leonard M. Singer

Law Office of Leonard M. Singer
101 Arch Street, Ninth Floor
Boston, Massachusetts 02110

Telephone: 617-737-7670

Facsimile : 617-395-2625

LeonardMSinger@gmail.com

www.leonardmsinger.com

227532



BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35397

ABC & D RECYCLING, INC.

LEASE AND OPERATION EXEMPTION OF A LINE
OF RAILROAD IN WARE, MASSACHUSETTS

ENTERED
Office of Proceedings

JUL 28 2010

Part of
Public Record

VERIFIED NOTICE OF EXEMPTION
FOR LEASE AND OPERATION OF A RAIL LINE
PURSUANT TO 49 USC 10901 AND 49 CFR 1150.31

FILED
JUL 28 2010
SURFACE
TRANSPORTATION BOARD

Submitted by:

Leonard M. Singer
Office of Leonard M. Singer
101 Arch Street, Ninth Floor
Boston, Massachusetts 02110
617-737-7670
LeonardMSinger@gmail.com

Counsel for ABC & D Recycling, Inc.

FEE RECEIVED
JUL 28 2010
SURFACE
TRANSPORTATION BOARD

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35397

ABC & D RECYCLING, INC.
LEASE AND OPERATION EXEMPTION OF A LINE
OF RAILROAD IN WARE, MASSACHUSETTS

VERIFIED NOTICE OF EXEMPTION
FOR LEASE AND OPERATION OF A RAIL LINE
PURSUANT TO 49 USC 10901 AND 49 CFR 1150.31



Pursuant to 49 CFR 1150.31 et seq. ABC & D Recycling, Inc., a non-carrier, hereby files this Verified Notice of Exemption to operate railroad trackage in Ware, Massachusetts owned by O'Riley Family Trust and currently served by the Massachusetts Central Railroad Corporation (MCER) as a sidetrack, industrial spur or private track owned. The trackage is located at milepost 12.8 on the Massachusetts Central Railroad.¹

ABC & D Recycling, Inc. ("ABC & D") started doing business in or about 2006, engaging primarily in the business of handling construction and demolition debris.² In

¹ On February 24, 2010 ABC & D Recycling, Inc. filed a Verified Notice of Exemption in STB Finance Docket 35356. On March 19 it and the Massachusetts Department of Transportation jointly filed a request that the effective date of the exemption be postponed until April 2 and that the deadline for filing a motion to stay the exemption's effective date be postponed until March 26. Also on March 19 the town of Ware filed a petition to reject and/or dismiss the notice and to stay the effective date of the exemption. The Board granted the motion for extension of time and on March 26, ABC & D Recycling, Inc. requested that its notice of exemption be withdrawn without prejudice. By decision dated April 1, the Board granted the request for withdrawal and dismissed the proceeding without prejudice.

² Although ABC & D's February 24 Verified Notice of Exemption disclosed in two places that it was a "non-carrier" and that it would "become a Class III short line railroad carrier upon this exemption taking effect," the town of Ware argued that ABC & D's Notice was false and misleading because it failed to disclose that ABC & D had "never engaged in common carriage." ABC & D flatly disputes the town's assertion but, to avoid any ambiguity, states that

connection with those activities it obtained all required state and local permits. ABC & D has obtained new financing and is implementing a new business plan and business strategy.³ This Verified Notice of Exemption is filed in furtherance of those transactions.

Name and Address of Applicant

49 CFR 1150.33(a)

ABC & D Recycling, Inc.
198 East Street
Post Office Box 269
Ware, Massachusetts 01082-9336

Applicant's Representative

49 CFR 1150.33(b)

Leonard M. Singer
Office of Leonard M. Singer
101 Arch Street, Ninth Floor
Boston, Massachusetts 02110
617-737-7670
LeonardMSinger@gmail.com

Statement of Agreements

49 CFR 1150.33(c)

An agreement has been reached pursuant to which ABC & D leases and will operate the railroad trackage in Ware, Massachusetts owned by O'Riley Family Trust.

Operator of the Property

49 CFR 1150.33(d)

ABC & D will hold itself out to provide and will provide common carrier rail freight service over the subject property.

Brief Summary of the Transaction

49 CFR 1150.33(e)

it is not and has never been a common carrier.

³ Although ABC & D's February 24 Verified Notice of Exemption also disclosed that it was "implementing a new business plan and business strategy" the town of Ware argued that ABC & D's Notice was false and misleading quoting testimony concerning ABC & D's earlier (and unsuccessful) business plans and strategies.

This exemption involves the operation by ABC & D, a non-carrier which will become a Class III short line railroad carrier upon this exemption taking effect, of certain property owned by the O'Riley Family Trust which is currently being operated by the Massachusetts Central Railroad Corporation.

(1) Name and address of incumbent Railroad

Massachusetts Central Railroad Corporation
2 Wilbraham Street
Palmer, Massachusetts 01069

The trackage is currently served by the Massachusetts Central Railroad Corporation (MCER) as a sidetrack, industrial spur or private track owned. The property, including the trackage, is being leased to ABC & D by the O'Riley Family Trust. ABC & D and the O'Riley Family Trust entered into a License Agreement for Private Railroad Grade Crossing and Side Track with the Executive Office of Transportation of the Commonwealth of Massachusetts governing, *inter alia*, access to ABC & D's facility.

(2) Proposed time schedule for consummation of transaction

The property has already been leased to ABC & D. It will become a railroad carrier and assume common carrier obligations immediately upon the effectiveness of the exemption sought herein.

(3) Mileposts of the subject property

The subject property is located at milepost 12.8 on the Massachusetts Central Railroad.

(4) Total route miles

ABC & D Recycling, Inc. leases and seeks to operate trackage comprising a total of 773 feet.

Map of the area to be served

49 CFR 1150.33(f)

A map indicating the area to be served, including origins, termini, stations, cities, counties, and states, is attached as Exhibit A.

Certificate of Carrier Classification

49 CFR 1150.33(g)

A certificate complying with 49 CFR 1150.33(g) is attached as Exhibit B.

Transactions Imposing Interchange Commitments

49 CFR 1150.33(b)

Not applicable, there are no such commitments.

Disclosure Concerning Solid Waste

ABC & D Recycling, Inc. has and intends to continue to handle construction and demolition debris. It obtained all state and local permits necessary in order to handle construction and demolition debris.⁴ It understands that if it wishes to handle solid waste, as that term is defined in the Clean Railroads Act of 2008 it must (1) obtain all state and local permits necessary in order to handle such solid waste or (2) obtain a land-use exemption from the Board for any permits that it is unable to obtain from state or local government.⁵

Caption Summary

49 CFR 1150.34

The caption summary is attached hereto as Exhibit C.

⁴ As of its motion to stay ABC & D's earlier Notice of Exemption, the town of Ware was willing to concede this.

⁵ Although ABC & D's February 24 Verified Notice of Exemption also contains the foregoing statement, the town of Ware argued that ABC & D's Notice was false and misleading because it failed to disclose that it had already denied ABC & D permits to handle municipal solid waste and for failing to disclose the details of these denials. ABC & D flatly disputes the town's assertion but, to avoid any ambiguity, states that it makes no representation herein as to what permits it has or does not have. It simply acknowledges that it must either obtain any necessary permits or obtain an exemption therefrom.

Environmental and Historic Reports

This transaction does not involve any structures that are more than 50 years old.


Notice to Employees

Not required. The projected annual revenue of the carrier to be created by this transaction does not exceed \$5 million.

RELIEF REQUESTED

ABC & D Recycling, Inc. requests that the Director of the Board's Office of Proceedings publish notices in the Federal Register of the filing of this Notice of Exemption and that the exemption become effective.

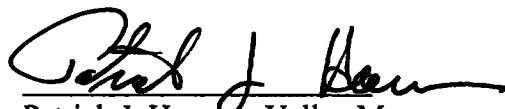
Respectfully Submitted:


Leonard M. Singer
Office of Leonard M. Singer
101 Arch Street, Ninth Floor
Boston, Massachusetts 02110
617-737-7670
LeonardMSinger@gmail.com

Counsel for ABC & D Recycling, Inc.

VERIFICATION

I, Patrick J. Hannon, being duly sworn, hereby depose and say that I am authorized to make this Verification, that I have read the foregoing document and the attachments thereto, and that I know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information and belief.



Patrick J. Hannon, Valley Management Services, Inc pursuant to Management Agreement with ABC & D Recycling, Inc. and O'Riley Family Trust dated February 18, 2010⁶

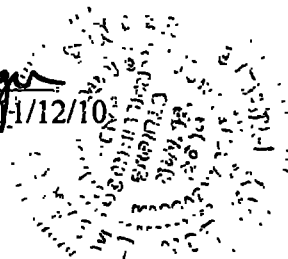
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

Personally appeared before me, a notary public in the Commonwealth of Massachusetts, Patrick J. Hannon, who identified himself to me by means of a Massachusetts driver's license, and acknowledged the foregoing to be his free act and deed and the free act and deed of ABC & D Recycling, Inc., on July 27, 2010.

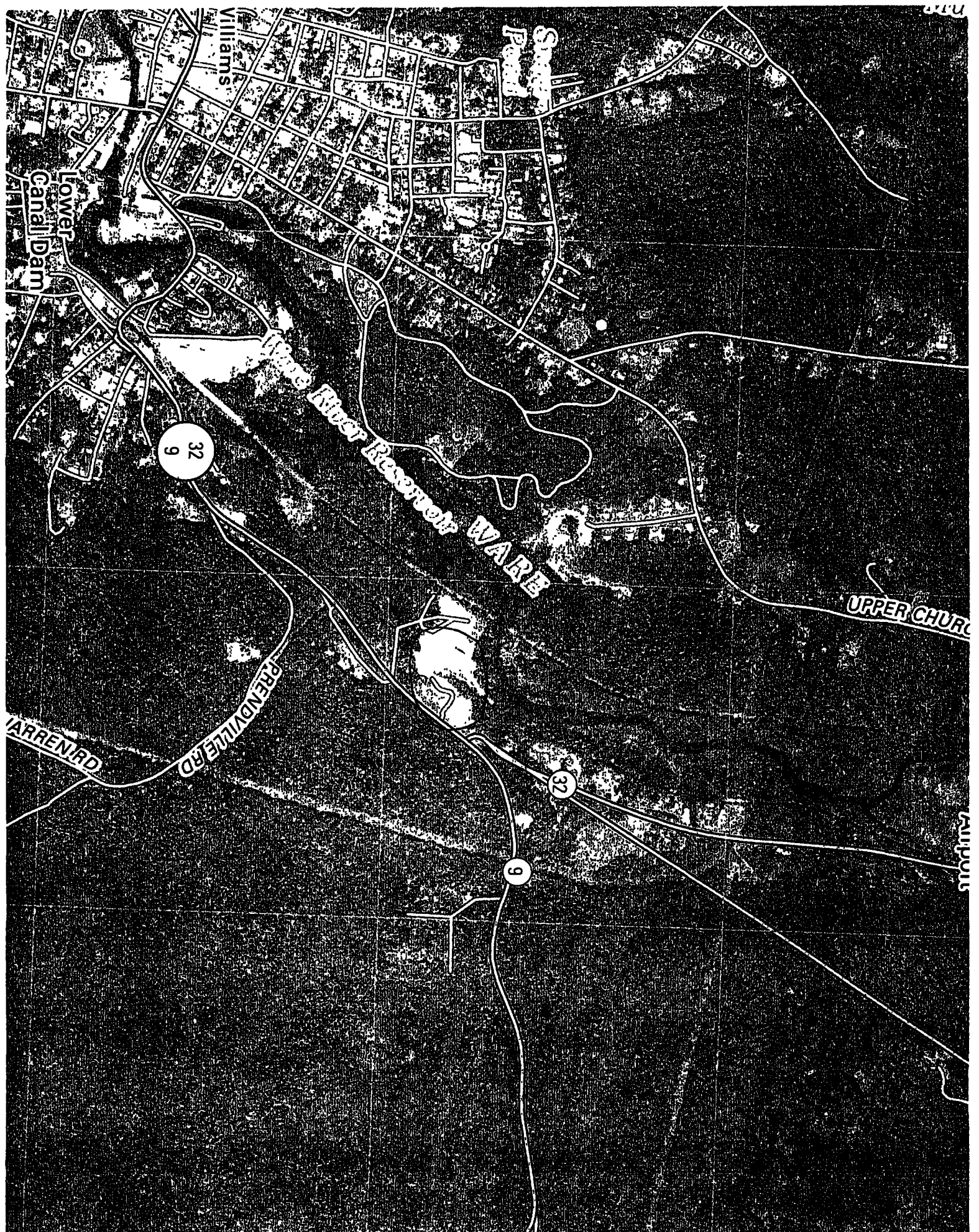


My Commission Expires: 01/12/10



⁶ The town of Ware disputed Mr. Hannon's authority to execute the earlier notice of exemption. The source of his authority is spelled out here.

Exhibit A



100 YEAR FLOOD PLAN

100 YEAR WETLANDS BUFFER ZONE
BLACKTOP ACCESS WAY

CURVE NUMBER	MAINLINE TRACK
C-1	
Δ	177° 47.2'
Ds	350' 00.0"
R	1637.28'
Ea	1' 0.63"
Eu	1' 0.63"
La	146.52'
Ls	650' 00.0"
Rs	855.37'
Ea	1' 1.62"
Eu	1' 1.62"
La	104.46'
Ls	62.00'
Rs	62.00'
Zs	1' 05.05.4"
Zs	756' 38.3"
V	151' 32.9"
	25 MPH

CURVE NUMBER	MAINLINE TRACK
C-2	
Δ	300' 20.1"
Ds	300' 00.0"
R	1910.08'
Ea	0"
Eu	1' 31"
La	100.20'
V	25 MPH

FINISH FLOOR
EL 495.04

8" BUILDING STUB TRACK
CONSTRUCT 365'
BUILDING STUB TRACK

OFFICE

200' RIVERFRONT

- NOTES:
1. ELEC. AND COMM. DUCTBANK CONSISTS OF (4)" SCH. 40 CONDUIT CONTAINING 40 AND 2 ELEC. AND 2 COMM. AND (4)" 3" TO RESIDENCE.
 2. ELEC. AND COMM. DUCTBANK CROSSES MAINLINE AT STA. 678+81±; CONSTRUCTED IN 3' TRENCH ACROSS 113' OF EOT R.O.W.
 3. WATER LINES TO BUILDING CROSS MAINLINE AT STA. 678+86±.
 4. HYDRANT FEED CONSTRUCTED ACROSS ADDITIONAL 85' OF EOT R.O.W. CENTERLINE OF ROADWAY CROSSES MAINLINE AT STA. 675+59±.
 5. ACCESS ROAD IS 24' WIDE AND OCCUPIES 2526 SF OF EOT R.O.W. SEE DRAWING TA-02 FOR TRACKWORK TABLE.

LINE & SURFACE 229'
MAINLINE TRACK
CONSTRUCT 25' EPITEX RAILSEAL AND ASPHALT GRADE CROSSING (SEE NOTE 4)

6+00
CONSTRUCT 408' NEW
OUTSIDE STUB TRACK
CONSTRUCT NEW #8
LEFT-HAND TURNOUT 677+00

678+00
LINE & SURFACE 317'
MAINLINE TRACK
INSTALL RAILROAD CROSSING AND STOP SIGNS

678+00
CONSTRUCT 356' NEW
CROSSOVER TRACK

CONCRETE ENCASED ELEC
AND COMM. DUCTBANK

8" WATER MAIN &
4" POTABLE WATER

PAVED DRIVE

DESIGNED BY	CHK'D BY	APPROVED BY	DATE APPROVED
0	07/08/03	W.L.	REV
REVISION DESIGN SUBMITTAL			
DESCRIPTION			




HDR ENGINEERING, INC.



MASSCENTRAL
MASSACHUSETTS CENTRAL RAILROAD OPERATOR

ABCD Recycling Facility
TRACK ALIGNMENT AND SITE PLAN

SCALE: 1" = 100'



DRAWING NO. TA-01

Exhibit B

EXHIBIT B

CERTIFICATION

I, Patrick J. Hannon, certify that I am the Manager of ABC & D Recycling, Inc. and that its projected revenues will not exceed those that would qualify it as a Class III carrier.

I further certify that the foregoing statement made by me is true, and I am aware that if the foregoing statement be willfully false, I am subject to punishment.

Sworn to on July 27, 2010.

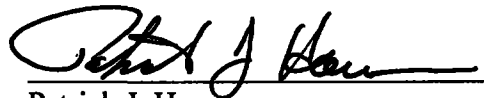

Patrick J. Hannon

Exhibit C

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35397

ABC & D RECYCLING, INC.

**LEASE AND OPERATION EXEMPTION OF A LINE
OF RAILROAD IN WARE, MASSACHUSETTS**

ABC & D Recycling, Inc. has filed a Verified Notice of Exemption under 49 CFR 1150.31 to operate railroad property owned by O'Riley Family Trust currently operated by the Massachusetts Central Railroad Corporation located at milepost 12.8 in Ware, Massachusetts.

Comments must be filed with the Board and served on Leonard M. Singer, 101 Arch Street, Ninth Floor, Boston Massachusetts. The telephone number of ABC & D Recycling, Inc.'s representative is 617-737-7670.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 USC 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board

Cynthia T. Brown

Chief, Section of Proceedings

[Seal]